



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

August 25, 1992

Mr. Emmitt Roberts  
Director, Legal Division  
Texas Alcoholic Beverage Commission  
P. O. Box 13127  
Austin, Texas 78711-3127

OR92-497

Dear Mr. Roberts:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 16759.

The Texas Alcoholic Beverage Commission (the "commission") has received a request for three categories of information relating to a certain application for a commercial license to lease bingo premises, including, *inter alia*, "certified copies of all records concerning the [Texas Application for Commercial License to Lease Bingo Premises filed on or about June 9, 1989 by The Bingo Idea-Watauga, Inc. . . . for property located at Regency Square Shopping Center]." You advise that the commission will make available to the requestor the bingo applications, which section 28 of the Bingo Enabling Act, V.T.C.S. art. 179d makes public. You also advise that the commission does not object to releasing information responsive to Request Nos. 2 and 3. You have submitted to us for review, however, information responsive to Request No. 1 that you claim the attorney-client privilege, which section 3(a)(1) incorporates into the Open Records Act, as well as sections 3(a)(3) and 3(a)(11), excepts from required disclosure.

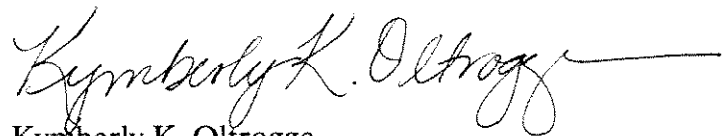
Section 3(a)(3) applies only when litigation in a specific matter is pending or reasonably anticipated and only to information clearly relevant to that litigation. Open Records Decision No. 551 (1990). "Whether litigation is reasonably anticipated must be determined on a case-by-case basis." Open Records Decision No. 452 (1986) at 4.

We have considered your arguments and have examined the information submitted to us for review. The requestor terms his request "Request for

Production of Documents" and includes therewith "Interrogatories," the evident intent of which is to render the documents admissible in evidence in litigation. We conclude therefore that the commission may reasonably anticipate litigation in this matter. In addition, we accept your determination that the information submitted to us for review relates to the anticipated litigation. Accordingly, section 3(a)(3) of the Open Records Act does authorize the commission to withhold from required public disclosure information submitted to us for review. As we resolve this matter under section 3(a)(3) of the Open Records Act, we need not address the applicability of sections 3(a)(1) and 3(a)(11) at this time.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR92-497.

Yours very truly,

A handwritten signature in cursive script, reading "Kimberly K. Oltrogge", followed by a horizontal line.

Kimberly K. Oltrogge  
Assistant Attorney General  
Opinion Committee

KKO/GCK/lmm

Enclosures: Marked Documents

Ref.: ID# 16759

cc: Mr. John T. Palter  
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